**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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| In the Matter of | ) | |
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| Connect America Fund | ) | WC Docket No. 10-90 |
| | ) | |
| A National Broadband Plan for Our Future | ) | GN Docket No. 09-51 |
| | ) | |
| High-Cost Universal Service Support | ) | WC Docket No. 05-337 |

# REPLY COMMENTS OF RURAL CELLULAR ASSOCIATION


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## SUMMARY

RCA applauds the Commission for its efforts in pursuing universal service reforms that will enable all Americans, including those residing in rural and high-cost areas, to gain access to affordable mobile and broadband services. However, in so doing, the Commission should design new funding mechanisms that are competitively and technologically neutral, that operate efficiently in targeting support to areas that are most in need, that facilitate competition and take account of marketplace success, and that are sufficient to ensure the comparability of services provided to consumers in rural and urban areas.

The Commission's proposed Broadband Availability Target of 4 Mbps of actual download speed and 1 Mbps of actual upload speed, with an upgrade path every four years, will ensure universal access, realistically balance the needs of rural consumers against the threat of a ballooning Universal Service Fund, and help to bring advanced broadband services to rural Americans at speeds comparable to those available in urban areas, thereby comporting with notions of regulatory parity. A requirement for higher broadband speeds would run the risk that the target would become a means of excluding wireless providers from the reformed Universal Service Fund.

RCA opposes the Commission's tentative approach of phasing down incumbent local exchange carriers' support over a 10-year period while phasing down wireless ETCs' support in half that time. The Commission's proposed transition threatens to significantly reduce funding to existing mobile wireless service providers before having in place sufficient funding from the new support mechanisms. At a time when the Commission should be taking steps to improve universal service funding to promote broadband deployment and encourage ongoing investment of private capital to further broadband goals, the Commission is instead proposing to turn off sources

for wireless infrastructure funding with no clear path or timeline for the resumption of sufficient funding for wireless broadband networks and services, ultimately harming rural consumers. This unfortunate prospect is particularly frustrating because wireless carriers have shown consistent and impressive success in using universal service funding to expand and improve coverage in rural and high-cost areas. The remarkable and continuing expansion of mobile wireless broadband networks and services, coupled with the fact that wireless technologies offer significant cost advantages when deployed in sparsely populated areas, underscores the fact that the new funding mechanisms produced by the Commission's reform efforts should not hinder opportunities for wireless carriers to bring services to rural America.

The Commission should also focus on targeting funds to rural and high-cost areas that are most in need, on a highly disaggregated basis. A cost model could be used for this purpose. In addition, support mechanisms should not only target support to high-cost areas, but should also ensure that all carriers may compete for funding. Portability of universal service funding should also be a key component of the Commission's reforms.

The Commission could ease the transition to the new funding mechanisms that will sustain these broadband services by immediately permitting carriers to use high-cost support they currently receive to provide broadband services in rural areas. However, new support mechanisms should be implemented in a manner that avoids any risk of compromising the operations of voice networks.

Finally, the Commission should not implement a reverse auction scheme as part of its new support mechanisms for broadband. The core problem with single-winner auctions is that the Commission would be funding monopoly service providers in rural and high-cost service areas. Even more troublesome is the fact that not only would reverse auctions install monopoly

providers, but they would also induce a “race to the bottom,” in terms of the availability of high-quality broadband services. Bidders would have incentives to bid low (in order to win the auctions) and then provide service based on the lowest level of investment and operational expenses possible.

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# REPLY COMMENTS OF RURAL CELLULAR ASSOCIATION

Rural Cellular Association ("RCA"),[1] by counsel, hereby submits these Reply Comments, pursuant to the Commission's Notice of Inquiry and Notice of Proposed Rulemaking in the above-captioned proceeding.[2] As expressed in its comments, RCA supports the Federal Communications Commission's ("FCC" or "Commission") objective to accelerate investment in broadband infrastructure. By properly crafting new universal service mechanisms, the FCC can stimulate investment and new technologies, and promote competitive and efficient delivery of advanced broadband services, for the benefit of consumers in rural and high-cost areas.[3] Based on the record, universal service support should be technologically and competitively neutral, success-based, and targeted.

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[1] RCA is an association representing the interests of nearly 90 regional and rural wireless licensees providing commercial services to subscribers throughout the Nation and licensed to serve more than 80% of the country. Most of RCA's members serve fewer than 500,000 customers.

[2] *Connect America Fund, A National Broadband Plan for Our Future, High-Cost Universal Service Support*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, Notice of Inquiry and Notice of Proposed Rulemaking, FCC 10-58, 2010 WL 16
38319, rel. Apr. 21, 2010 ("*NOI*" and "*NPRM*").

[3] *See also* Comments of Rural Cellular Association, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337 (July 12, 2010) ("RCA Comments").

## I. THE BROADBAND AVAILABILITY TARGET WILL BE EFFECTIVE IN BRINGING ADVANCED BROADBAND SERVICES TO RURAL AMERICA.

### A. The Commission's Proposed Broadband Speed Target Will Ensure Universal Broadband Access Throughout Rural America.

Numerous parties agree with RCA that the Commission's proposed Broadband Availability Target ("BAT") of 4 megabits per second ("Mbps") of actual download speed and 1 Mbps of actual upload speed,[4] with an upgrade path every four years, will ensure universal access.[5] Any evaluation of the Commission's initial broadband speed target must be placed in the context of the Commission's overall plan for bringing advanced broadband services to all Americans. The Commission's goal is that at least 100 million U.S. homes should have affordable access to actual download speeds of at least 100 Mbps and actual upload speeds of at least 50 Mbps by 2020.[6] RCA agrees with the Commission that this goal "will create the world's most attractive market for broadband applications, devices and infrastructure."[7]

Given this overall goal, the BAT is reasonable, and it also realistically "balance[s] the needs of rural consumers against the threat of a ballooning universal service fund."[8] The BAT makes sense because it reflects the level of broadband speeds accessible to most Americans today,[9] because it exceeds broadband targets from around the world,[10] and because the Commis-

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[4] *FCC, Connecting America: The National Broadband Plan* (rel. Mar. 16, 2010) ("NBP") at 135, Box 8-1.

[5] RCA Comments at 22.

[6] NBP at 9.

[7] *Id*.

[8] CTIA Comments at 27. *See* Julius Genachowski, Chairman, FCC, Prepared Remarks at the 47th Annual OPASTCO Summer Convention and Trade Show (July 28, 2010) ("Chairman Genachowski Remarks") at 6 (noting that "[t]he Broadband Plan projects that a universal speed funding level of 100 megabits for every U.S. household would require $320 billion in additional USF support, which could translate into a 7-fold increase in a consumer's contribution to the universal service fund").

[9] *See* NBP at 19 (Exhibit 3-D), 20 (indicating that 95 percent of the U.S. population has access to broadband infrastructure capable of supporting actual download speeds of at least 4 Mbps). *See* Akamai "State

sion would review and reset the BAT target every four years because of the uncertainties involved in predicting consumers' bandwidth needs.[11] The broadband speed target proposed by the Commission is also sound public policy because it will help to bring advanced broadband services to rural Americans at speeds comparable to those available in urban areas, comporting with notions of regulatory parity.[12]

### B. The Broadband Speed Targets Proposed by the Commission Avoid Raising Issues Regarding Technological or Competitive Neutrality.

The reasonableness of the BAT contrasts with the fact that requiring higher broadband speeds at the outset is not only unnecessary in order to bring comparable broadband services to consumers in rural and high-cost areas, but also would not be technologically or competitively neutral. A requirement for higher speeds would run the risk that the target would become "a means of excluding wireless providers from participating in new support mechanisms"[13] and wireless is the most effective and cost-efficient means to deploy broadband.[14]

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of the Internet" Report, 3Q 2009, Vol. 2, No. 3, Appendix (reporting average broadband speeds in the U.S. to be 3883 kbps).

[10] *See id*. at 135 (Exhibit 8-A).

[11] *Id*. at 135.

[12] JONATHAN E. NUECHTERLEIN & PHILIP J. WEISER, DIGITAL CROSSROADS 25 (2005) (Describing regulatory parity as the notion that, "[e]xcept where lingering natural monopoly conditions make one provider dominant in a particular market, like services should generally be regulated alike, no matter what physical medium is used to provide them.").

[13] CTIA Comments at 27. *See* Michael J. Copps, Acting Chairman, FCC, *Bringing Broadband to Rural America: Report on a Rural Broadband Strategy* (May 22, 2009) at para. 78 ("Acting Chairman Copps Report") (indicating that "decision makers should proceed on a technology-neutral basis—by considering the attributes of all potential technologies—in selecting the technology or technologies to be deployed in a particular rural area").

[14] Using wireless technologies, the FCC estimates that ubiquitous broadband would cost $18.3 billion, whereas additional DSL deployments at comparable speeds would cost around $26.2 billion. *See* The Broadband Availability Gap: OBI Technical Paper No. 1 at 45 (April 2010). Another survey found that connecting 90% of unserved households with fiber-optic internet connections would cost $142 billion. Vince Vittore, Ubiquitous U.S. Broadband Will Cost At Least Triple the Current Stimulus Package, Yankee Group, *available at* http://www.yankeegroup.com/ResearchDocument.do?id=52108.

Requiring higher broadband speeds at the outset—*i.e.*, attempting to direct funding only to "future proof" networks—not only would violate the Commission's principle of technological and competitive neutrality, by making it difficult for wireless eligible telecommunications carriers ("ETCs") to be immediately eligible for funding from the new support mechanisms, but also would not make any practical sense. The Commission has recognized that "[g]iven current trends, building a future-proof network immediately is likely more expensive than paying for future upgrades."[15]

The Commission has instead proposed an approach using a model that "assumes that any technology that meets the National Broadband Availability Target will be eligible to provide service."[16] This outcome that the Commission seeks to achieve through use of the BAT is particularly important for consumers who seek the benefits and efficiencies that can be provided by mobile wireless broadband. As CTIA has observed, "[t]he market is the best indicator of consumer value and consumers are adopting mobile broadband services at a rapid pace. Thus, the Commission should not implement any speed threshold in a manner that discriminates against technologies such as mobile wireless."[17]

### C. Concerns Regarding the Proposed Broadband Availability Target Are Misplaced.

Opponents of the Commission's proposed BAT argue that the 4 Mbps threshold is too slow, thus threatening a "digital divide" between rural and urban consumers, that making funding available for networks operating at the proposed speeds would stunt the deployment of fiber

[15] Omnibus Broadband Initiative ("OBI") Technical Paper No. 1, *The Broadband Availability Gap* (Apr. 2010) ("OBI Tech. Paper No. 1") at 41.

[16] *Id*.

[17] CTIA Comments at 28.

optic networks, and that the BAT represents an ill-considered short-term fix that will lead to large and unwarranted Universal Service Fund ("USF") funding outlays in the long run.[18]

Concerns regarding a digital divide are not well-founded, for three reasons. First, as RCA has discussed, the Commission can reasonably conclude that the BAT will achieve comparability between rural and urban consumers because broadband at 4 Mbps download speeds is widely available in most areas today,[19] and would become available in rural and high-cost areas through use of the BAT. Second, as Chairman Genachowski has observed, the 4 Mbps actual speed threshold "translates to a typical advertised speed of 8 megabits per second [and] would be a 20-fold increase over the FCC's old 200 kilobit definition for broadband."[20] The proposed threshold would thus significantly improve broadband services in rural and high-cost areas. And, third, a higher threshold would more likely lead to a digital divide because it would impair efforts to deploy mobile wireless broadband in rural and high-cost areas at a time when consumer demand for mobile broadband is skyrocketing[21] and will continue to soar.[22]

The Blooston Carriers' reservations regarding the impact of the BAT on fiber optic networks seem to be that a higher speed threshold would free up more universal service funding for fiber networks by reducing funding for mobile wireless broadband. The Blooston Carriers in ef-

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[18] *See* Blooston Carriers Comments at 5-10; *see also* Letter from Forty Members of Congress to The Honorable Julius Genachowski (May 28, 2010) (accessible at http://www.ntca.org/images/stories/Documents/Press_Center/2010_Releases/GravesMarkey_Letter_NBP_Concerns.pdf).

[19] *See* NBP at 156 n.3 (noting that, "[g]iven past annual growth rates in subscribed speed of approximately 20-25% per year, we expect the median to exceed 4 Mbps by the end of 2010").

[20] Chairman Genachowski Remarks at 6.

[21] A recent National Health Interview Survey indicates that approximately 25% of Americans have wireless telephone service only. The National Health Interview Survey can be found at http://www.cdc.gov/nchs/nhis.htm.

[22] Morgan Stanley research indicates that the total number of mobile Internet users will surpass the total number of desktop Internet users by 2014. The Morgan Stanley Internet Trends report can be found at www.morganstanley.com/techresearch.

fect would have the Commission manipulate its funding eligibility criteria to pick winners and losers. But the Commission has long held the view that consumers and the marketplace—and not regulatory fiat—should drive the provision of services in rural and high-cost areas. In addition, the Blooston Carriers' argument that the BAT would be only a short-term fix has been answered convincingly by the Commission's own analysis which concluded that attempts to "future proof" broadband deployment by setting higher broadband speeds at the outset would likely be more expensive in the long run.[23]

NECA voices doubts similar to those of the Blooston Carriers regarding the Commission's proposal not to fund "future proof" networks for deployment in rural and high-cost areas, and cites an engineering study (by an organization whose member firms "provide extensive engineering services to RLECs")[24] criticizing the Commission's proposed speed targets because they do not represent responsible long-term planning, and claiming that the NBP is overly optimistic in relying on wireless technology.[25]

RCA disagrees with NECA's claims. The Commission has recognized that there are some limitations regarding wireless networks, but has reached the reasonable tentative conclusion that these limitations do not preclude establishing the proposed speed target, and that the

[23] RCA also agrees with the former Executive Director of OBI, Blair Levin, who has stated that higher network speeds are not of critical importance. Levin recently observed that "I actually don't think global leadership is defined by network speeds[,]" that the U.S. is "the global leader not because of metrics but because" companies such as Google and Cisco are at the forefront of advancing broadband capabilities and services, and that "if we don't have . . . really good mobile broadband, that to me is much worse" than not focusing on deploying networks with higher speeds. Adam Bender, *Ex-FCC Officials Say Rural-Urban Digital Divide Not Plan's Intension, COMM. DAILY, Aug. 2, 2010, at 3.*

[24] NECA, NTCA, OPASTCO, WTA, and Rural Alliance ("NECA") Comments at 19.

[25] *Id*. at 20.

limitations actually can be turned to consumers' advantage.[26] In addition, mobile wireless service providers are more resilient than supposed by NECA in adapting to consumer demand. For example, Long-Term Evolution ("LTE") technologies currently being deployed by wireless carriers are capable of providing download speeds in the range of 12 Mbps[27] and High Speed Packet Access ("HSPA") technology with increased download speed capabilities is also being deployed around the country.[28]

## II. THE TRANSITION OF USF SUPPORT TO BROADBAND MUST PROVIDE FOR THE EQUITABLE TREATMENT OF ALL SERVICE PROVIDERS AND MUST AVOID DISRUPTIONS IN FUNDING DISBURSEMENTS.

RCA has emphasized in its Comments that a successful transition from the current universal service structure to new support mechanisms aimed at the deployment of broadband networks and the provision of broadband services must include two critical components. First, the phase-down of current support must be accomplished in a technologically and competitively neutral manner.[29] Second, the transition must limit disruptions in the provision of mobile wireless services in rural and high-cost areas.[30] RCA thus opposes the Commission's tentative approach

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[26] *See* OBI Tech. Paper No. 1 at 42 (noting that, at a point when fixed wireless networks could no longer meet fixed broadband demand, these networks "can continue to generate value by delivering mobile services").

[27] *See* Caroline Gabriel, *TeliaSonera aims to boost LTE performance to 80 Mbps* (Mar. 14, 2010) (accessible at http://www.rethink-wireless.com/2010/03/14/teliasonera-aims-boost-lte-performance-80mbps.htm).

[28] *See* Robert C. Atkinson & Ivy E. Schultz, *Broadband in America* (Columbia Institute for Tele-Information) (Nov. 11, 2009) at 24 (accessed at http://www.broadband.gov/docs/Broadband_in_America.pdf). The paper states that LTE can provide speeds in the range of 12 Mbps if networks are not overloaded by too many subscribers using bandwidth-intensive applications*; see also AT&T to Make Faster 3G Technology Available in Six Major Cities This Year*, AT&T Media Release (Sept. 9, 2009).

[29] RCA Comments at 10.

[30] *Id*. at 11. RCA argues that:

> any phase down should mirror the likely industry conversion from voice networks to all IP networks. An accelerated phase down that is not synchronized with network deployment may have the unintended consequence of causing voice networks to be prematurely

of phasing down incumbent local exchange carriers' ("LECs") support over a 10-year period while phasing down wireless ETCs' support in half that time. RCA is also concerned that the Commission's proposed transition threatens to significantly reduce funding to existing mobile wireless service providers before having in place sufficient funding from the new support mechanisms.

Other parties share RCA's concerns. Sprint, for example, argues that, "[t]o help ensure competitive parity, high-cost support for all ETCs—both competitive and incumbent carriers—should be phased out on a consistent time line[,]"[31] and NCTA observes that "[i]t seems clear that the disparity between ILECs and CETCs could have competitive implications as CETCs are forced to deal with more drastic support reductions than their competitors, exacerbating disparities that already exist as a result of the cap on CETC support that was imposed in 2008."[32]

Commenters also agree with RCA that the timing of the transition must avoid any phase-down of funding for mobile wireless services that would result in disruption to the deployment of wireless networks or to the provision of wireless services. CTIA, for example, criticizes the Commission's proposal in the *NPRM* because it would eliminate support for wireless carriers before alternative funding mechanisms are in place.[33]

The results of the Commission's inequitable transition would be calamitous. The agency's approach would "likely decrease investment in low density, rural areas during the potential-

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> abandoned. The FCC . . . must not phase down current support until . . . the FCC has developed and implemented an adequate replacement support mechanism(s).

*Id*.

[31] Sprint Comments at 14. *See* T-Mobile Comments at 4 (internal quotation marks and footnote omitted) (explaining that "[a]ny plan to refocus universal service funding to create a pathway to a more efficient and targeted mechanism for funding broadband, must be competitively and technologically neutral").

[32] NCTA Comments at 15.

[33] CTIA Comments at 7.

ly long period in which the Commission develops new support mechanisms[,]"[34] and "also may lead wireless providers to delay upgrades to their networks, expansion of their coverage areas or, depending on the importance of USF support to individual providers, reduce their coverage."[35] In order to avoid these harmful effects, which would undercut the Commission's own policy goals,[36] T-Mobile argues that "existing CETC funding should not be phased out until the new efficient funding mechanisms . . . are fully implemented."[37]

When viewed in light of the rural broadband investment gap identified by the Commission, the lack of synchronicity between the accelerated five-year phase-out of wireless ETC support and the adoption of alternative funding mechanisms is particularly problematic.[38] At a time when the Commission should be taking steps to improve universal service funding to promote broadband deployment, and to encourage ongoing investment of private capital to further broadband goals, the Commission is instead proposing to turn off sources for wireless infrastructure funding with no clear path or timeline for the resumption of sufficient funding for wireless broadband networks and services, ultimately harming rural consumers.

This unfortunate prospect is particularly frustrating because wireless carriers have shown consistent and impressive success in using universal service funding to expand and improve cov-

[34] *Id*.

[35] *Id*. *See* T-Mobile Comments at 10 (explaining that a five-year phase-out of wireless ETC support "would have a significant negative impact on wireless deployment and expansion in rural areas").

[36] *See* CTIA Comments at 7.

[37] T-Mobile Comments at 10.

[38] OBI has indicated that there are 7 million housing units without access to terrestrial broadband infrastructure capable of providing speeds that meet the BAT, that private capital will not likely be a source of funding for the deployment of infrastructure to serve these units, and that $23.5 billion in support will be needed to provide complete coverage for these housing units. OBI Tech. Paper No. 1 at 5.

erage in rural and high-cost areas.[39] U.S. Cellular has provided the Commission with maps depicting progress it has made in using high-cost support to improve service in rural states.[40] "In each case, support has helped U.S. Cellular to improve its coverage over the past several years, but the most rural portions of its service area still require additional investment."[41]

Proponents of the Commission's unbalanced approach to phasing down incumbent LEC and wireless ETC support blithely assure us that "[s]uch a phase out would be equitable to wireless carriers . . . ."[42] This assertion by CenturyLink is followed by its observation that the proposed five-year phase-down would "give [competitive ETCs] a transition to accommodate the change."[43] However, there is no basis to conclude that a five-year phase-down can be "equitable" if incumbent LECs are given the benefit of a phase-down that is twice as long.[44]

CenturyLink further attempts to explain its support for the inequitable phase-down by claiming that current funding for wireless ETCs is a "windfall that is only funding duplicate networks, not universal service."[45] Such hyperbole is not a substitute for a reasoned justification for differing phase-down periods. The canard regarding "duplicate" networks has never been shown

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[39] *See e.g.,* Greg Avery, *Qwest Would Lose Big Under Prop 101 Rules*, DEN. BUS. J., June 11, 2010, *available at* http://denver.bizjournals.com/denver/stories/2010/06/14/story5.html.

[40] *See* U.S. Cellular Comments at Exhibit 1.

[41] *Id*. at 5.

[42] CenturyLink Comments at 42.

[43] *Id*.

[44] In fact, rather than phasing down support to CETCs, based on the significant loss of customers by ILECs over the last decade, reductions in high-cost support should be primarily targeted at ILECs who have seen their high-cost support rise despite losing over 50 million access lines since 2001. In that regard, RCA supports the proposal put forth by the Alliance of Rural CMRS Carriers which proposes an interim cap on per-line support to all ILECs at either March 2008 or March 2010 levels. *See* Letter from David A. LaFuria, to Marlene H. Dortch, CC Docket No. 96-45, WC Docket No. 05-337, GN Docket Nos. 09-47, 09-51, 09-137 (dated Mar. 3, 2010); *see also* Letter from David A. LaFuria and Steven M. Chernoff, to Marlene H. Dortch, CC Docket No. 96-45, WC Docket No. 05-337, GN Docket Nos. 09-47, 09-51, 09-137 (dated Apr. 28, 2010).

[45] *Id*. (footnote omitted). *See* NASUCA Comments at 16.

to have any basis. The fact is that universal service support provided to wireless ETCs in the same service area is fully portable among the carriers; this results in the provision of competitive services, not duplicative networks.[46]

## III. UNIVERSAL SERVICE SUPPORT MECHANISMS MUST BE SUCCESS-BASED.

In its Comments, RCA criticizes current universal service support mechanisms that use "actual cost" methodologies to disburse funding to rural incumbent LECs, and argues that the Commission should design new support mechanisms that provide a fixed amount of support targeted to high-cost areas for which all carriers may compete, with support being disbursed only to those carriers that build facilities and obtain customers.[47]

There is support in the record for RCA's view that the use of "actual cost" methodologies for the disbursement of support is inefficient. CTIA, for example, observes that "existing ILEC mechanisms basing support on embedded costs result in inefficiencies and excessive support."[48] Moreover, CTIA explains that "[w]ireless carriers must have a fair and meaningful opportunity to compete to participate in the CAF [Connect America Fund] and receive support for the broadband-focused networks that this fund is designed to support."[49]

Ensuring this fair treatment for mobile wireless carriers is critical not only because it is mandated by notions of regulatory parity, but also because the Commission's new mechanisms

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[46] *See* T-Mobile Comments at 9; U.S. Cellular Comments at 20.

[47] RCA Comments at 13.

[48] CTIA Comments at 14 (footnote omitted) (citing NBP at 147). *See* Sprint Comments at 3 (observing that "continued use of embedded costs has no relationship with actual funding requirements and will only perpetuate a bloated fund"); *see also* NUECHTERLEIN & WEISER at 51 ("traditional rate-of-return regulation tends to give any public utility perverse incentives to 'gold plate' its assets: that is, incentives to spend more than is efficient or necessary simply to increase the rate base on which it earns its profits.").

[49] CTIA Comments at 23.

should account for and take advantage of the substantial growth in mobile broadband service. That is, RCA agrees with Chairman Genachowski that "universal service policies must be based on the future, not the past."[50] The future is with wireless.

The NBP highlights the rapid growth of wireless broadband, pointing to a number of key drivers, such as the maturation of 3G networks, the roll-out of 4G technologies, and the development of smartphones and other mobile computing devices.[51] In addition, OBI, in examining the costs of various technologies in unserved areas, has determined that "these costs diverge as we move toward lower population densities[,]" and that "[w]ireless solutions are among the lowest cost solutions and wireless costs grow less quickly as density falls."[52] Moreover, RCA agrees with RTG that the Commission's proposal to cut back high-cost support for wireless ETCs "fails to recognize the importance of mobility for all Americans and . . . consumer choice."[53]

The remarkable and continuing expansion of mobile wireless broadband networks and services, coupled with the fact that wireless technologies offer significant cost advantages when deployed in sparsely populated areas, underscores the fact that the new funding mechanisms produced by the Commission's reform efforts should not hinder opportunities for wireless carriers to bring services to rural America.

## IV. UNIVERSAL SERVICE SUPPORT SHOULD BE TARGETED AND FULLY PORTABLE.

RCA has demonstrated that the Commission should focus on targeting funds to rural and high-cost areas that are most in need, on a highly disaggregated basis, and has suggested that a

[50] Chairman Genachowski Remarks at 4.

[51] NBP at 76.

[52] OBI Tech. Paper No. 1 at 61. *See* Acting Chairman Copps Report at para. 10 (footnote omitted) (noting that "[w]ireless providers have been launching new broadband technologies that allow subscribers to access the Internet, while mobile, at speeds that are beginning to rival those on landline networks").

[53] RTG Comments at 15.

cost model could be used for this purpose. Support mechanisms not only should target support to high-cost areas, but should also ensure that all carriers may compete for funding.[54] The record supports RCA's approach. For example, the Wyoming PSC urges the Commission to develop models and assumptions that reliably identify broadband gaps and target support for unserved and underserved rural areas.[55]

One commenter suggests a different approach to targeted funding that RCA views as counter-productive. NCTA argues that instead of preserving high-cost support in areas where the market is delivering services without subsidy, the Commission should as a key component of its universal service reform strategy adopt a mechanism to reduce or eliminate support in areas in which ""unsubsidized wireline competitors offer service to more than 75 percent of the customers in an area without support[.]"[56]

There are several problems with NCTA's approach. First, the proposal would not advance universal service and competitive goals in several respects. For example, the NCTA proposal risks the prospect that highest-cost areas would be left with insufficient universal service support, or with no support at all. The NCTA proposal also would undercut the statutory goal of relying on competitive entry in rural and high-cost markets as a means of advancing universal service objectives. Second, the petition process that NCTA proposes as the vehicle for the Commission's consideration of funding reductions or elimination would impose unwarranted burdens

[54] RCA Comments at 8-9, 14.

[55] Wyoming PSC Comments at 2. *See* AT&T Comments at 15 (arguing that "[t]argeting and calculating support based on an area smaller than a county is more likely to generate the level of support needed to improve the business case for providing broadband because it would reduce the level of averaging or netting that could occur as the size of the geographic area increases"); Nebraska PSC & North Dakota PSC at 9 (favoring the effective and efficient targeting of support to needed areas); U.S. Cellular Comments at 18-19; USTA Comments at 14 (suggesting that the Commission should "better target current high-cost support to the granular areas with the greatest demonstrated need").

[56] NCTA Comments at 10 (footnote omitted).

on funding recipients and would also create cumbersome administrative problems for the Commission. Finally, there are better ways of achieving NCTA's stated objective of easing pressures on high-cost mechanisms. For example, the size of the high-cost fund could be reduced significantly if the Commission required full portability of funding received by rural incumbent LECs.

RCA has argued that the portability of universal service funding should be a key component of the Commission's reforms.[57] In other words, if a rural incumbent loses a telephone service line to a competing carrier, then the incumbent also would lose high-cost funding associated with that line.[58] This approach has gained support in the record. The USA Coalition, for example, argues that allowing multiple ETCs to compete for portable universal service support would result in lower retail prices for consumers than would the use of single-winner reverse auctions.[59]

## V. USF MECHANISMS SHOULD SUPPORT BOTH BROADBAND AND VOICE SERVICES UNTIL THE TRANSITION TO IP-BASED SERVICES IS COMPLETE.

RCA has explained in its Comments that a critical aspect of the Commission's plans for transitioning universal service support to broadband involves the need to protect existing voice networks.[60] New support mechanisms should be implemented in a manner that avoids any risk of compromising the operations of these voice networks "while they are still providing great utility

[57] RCA Comments at 4, 5-7, 8, 14.

[58] *Id*. at 13 (explaining that "[u]niversal service should be tied to the customer, not the carrier, and should shift with the customer if a customer switches carriers").

[59] USA Coalition Comments at 36. *See* U.S. Cellular Comments at 14-15 (arguing that the Commission should "reaffirm the existing principle of competitive neutrality by providing fully portable support to all carriers willing to offer the supported services throughout a designated service area, and by limiting such support to a level needed to provide consumers with similar choices in telecommunications services as are available in urban areas").

[60] RCA Comments at 13.

to rural consumers."[61] In addition, RCA has argued that ETCs should immediately be permitted to invest high-cost support they currently receive to deploy broadband in rural areas.[62]

Other commenters have expressed concerns similar to those raised by RCA. For example, RTG argues that the Commission should continue providing high-cost support to carriers providing voice-based telecommunications services and criticizes the Commission for proposing to "proceed[] with the first step of dismantling legacy USF support when it has no idea (and neither does the industry) how CAF will be implemented[.]"[63]

In addition, AT&T points out that the Commission has recognized that ongoing support may be necessary to sustain broadband service in areas in which consumers already have access to broadband as a result of the existing high-cost funding program.[64] AT&T encourages the Commission to take steps to determine the level of ongoing support that will be necessary to sustain broadband services "in areas that are currently served due to current high-cost support and intercarrier compensation-derived revenues."[65] In RCA's view, the Commission could ease the transition to the new funding mechanisms that will sustain these broadband services by imme-

[61] *Id*.

[62] *Id*. at 6.

[63] RTG Comments at 16-17. RTG also takes the position that the Commission has no statutory authority to establish a broadband universal service fund. *Id*. at 16. *See* CenturyLink Comments at 3 (citing NBP at 150) (indicating that the provision of voice-based support for networks in the highest cost areas will be required to continue for some time); NASUCA Comments at 3 (internal quotation marks and footnote omitted) (noting that, although NASUCA supports providing universal service funding for broadband, "this does not mean that support for broadband can completely replace support for traditional voice services, or that such support can be limited to areas where, in the absence of support, there is no business case for supplying high-quality voice-grade service").

[64] AT&T Comments at 12 (citing *NPRM* at para. 13). *See* NECA Comments at 7 n.16 (expressing concern that apparent funding cuts for rural study areas being contemplated by the Broadband Assessment Model "would make it impossible for RLECs to sustain existing broadband service levels").

[65] AT&T Comments at 13.

diately permitting carriers to use high-cost support they currently receive to provide broadband services in rural areas.

## VI. REVERSE AUCTIONS WOULD AMOUNT TO AN ANTI-COMPETITIVE RACE TO THE BOTTOM.

RCA has urged the Commission not to use a reverse auction scheme as part of its new support mechanisms for broadband.[66] The record reflects considerable skepticism regarding the possibility of utilizing reverse auctions as a means of providing universal funding support for broadband deployment.

The core problem with single-winner auctions is that the Commission would be funding monopoly service providers in rural and high-cost service areas.[67] Even more troublesome is the fact that not only would reverse auctions install monopoly providers, but they would also induce a "race to the bottom," in terms of the availability of high-quality broadband services, because bidders would have incentives to bid low (in order to win the auctions) and then provide service based on the lowest level of investment and operational expenses possible.[68]

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[66] RCA Comments at 14-19.

[67] U.S. Cellular Comments at 13. *See* USA Coalition Comments at 34 (stating that "[t]he goal of universal affordability is frustrated by mechanisms that provide support for only one carrier"). Fostering monopolies in rural and high-cost services areas would be an odd pursuit for the Commission, particularly in light of the widespread consensus that competitive forces bring an array of benefits for consumers. This has been particularly true regarding mobile wireless services. *See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 09-66, Fourteenth Report, FCC 10-81 (rel. May 20, 2010) at 301, *quoted in* USA Coalition Comments at 38 (Statement of Chairman Genachowski) (noting that competition in wireless voice markets has in many cases promoted higher quality services for lower prices, and concluding that "it is vital that competition continue to serve these goals as consumers and industry migrate from voice to high-speed data and 4G mobile broadband").

[68] *See* NECA Comments at 23.

Reverse auctions present a host of additional problems.[69] RCA agrees with NECA that, over the course of the Commission's examination of reverse auctions for at least the last decade, "[c]ommenters have cited numerous reasons why reverse auctions will not work, and the record makes clear administration of reverse auctions would be time and labor intensive, prohibitively expensive, and technically burdensome."[70] Commenters also demonstrate that a reverse auction mechanism would not be consistent with the statutory framework for universal service,[71] would necessitate a cumbersome and costly regulatory superstructure,[72] would spawn anti-competitive behavior and effects,[73] and would lead to numerous practical administrative and operational problems and other adverse effects.[74]

The Commission has sought comment on a procurement auction mechanism suggested by a group of economists.[75] Parties responding to the *NOI* have been highly critical of the pro-

[69] *See, e.g.*, CenturyLink Comments at 55 n.144 (explaining that "[t]here are serious flaws in any reverse auction system for awarding USF"); Peter K. Pitsch, *Reforming Universal Service: Competitive Bidding or Consumer Choice* (Cato Institute Briefing Paper No. 29) (May 7, 1997) at 3-4 (accessed at http://www.cato.org/pub_display.php?pub_id=1468) (explaining that reverse auctions could raise the cost of entry by giving an auction winner or winners a competitive advantage over other service providers, and that, "[t]o the extent that the use of competitive bidding undermines competition, the company or companies eligible for the high-cost subsidy will have an incentive to raise prices or reduce quality to increase profits").

[70] NECA Comments at 22. *But see* Verizon Comments at 27-28 (arguing that a well-designed, technology-neutral reverse auction mechanism would provide benefits).

[71] *See* USA Coalition Comments at 35-36; U.S. Cellular Comments at 13.

[72] *See* NECA Comments at 24-25 (discussing the steps the Commission would be forced to take to monitor compliance by auction winners); USA Coalition Comments at 40; U.S. Cellular Comments at 13-15.

[73] *See* USA Coalition Comments at 34 (explaining that a single-winner reverse auction would insulate the supported carrier from market forces "that would otherwise compel [the carrier] to become more efficient over time"); *id*. at 36; U.S. Cellular Comments at 15-16.

[74] *See* AT&T Comments at 7 (discussing the difficulties in defining "a geographic area [for the auction] that is both competitively neutral and appropriately sized"); *id*. at 7-8 (discussing difficulties associated with setting an auction's reserve price); Nebraska PSC & North Dakota PSC Comments at 9-10 (noting that auction mechanisms "would threaten the underlying stability of universal service in rural areas and will chill long-term investments"); NECA Comments at 23-24 (describing the difficulties in fixing the length of time between auctions); U.S. Cellular Comments at 16-18.

[75] *NOI* at paras. 43-44.

posal. For example, NECA demonstrates that the proposal would not solve any of the numerous problems inherent in a reverse auction structure and, in fact, would add to these problems by allowing auction participants to bid on geographic areas of their own choosing.[76] RCA agrees with NECA's assessment that such an approach would make the auction mechanism virtually unmanageable.[77] NECA also observes that the "most telling critique" of the economists' procurement auction proposal is the fact that it was considered and rejected by the National Telecommunications and Information Administration and the Rural Utilities Service in connection with these agencies' development of allocation mechanisms for broadband stimulus grants.[78]

If the Commission chooses to ignore that substantial evidence in the record identifying the pitfalls of reverse auctions, and attempts to design and impose an auction mechanism, then RCA agrees with CTIA that such a mechanism should at least meet several important criteria: (1) the mechanism must be open to all providers on a competitively neutral basis; (2) all industry participants (not just wireless carriers) must be subject to the mechanism; and (3) the mechanism should not inhibit the development of a competitive marketplace.[79]

RCA, however, cannot endorse a "winner takes more" reverse auction mechanism that is favored by CTIA,[80] primarily because the proposal would do little to avoid the "race to the bottom" that is inherent in reverse auction mechanisms. RCA agrees with the Rural Independent Competitive Alliance that the "winner takes more" mechanism "would penalize carriers that realistically estimate their costs of providing quality service by providing the carrier with less sup-

[76] NECA Comments at 25-26. *See* Nebraska PSC & North Dakota PSC Comments at 10 (explaining that procurement auctions would likely favor the largest carriers and disadvantage the smaller providers and new entrants, and could also result in support being reduced or eliminated for existing carriers).

[77] *See* NECA Comments at 26.

[78] *Id*. at 27.

[79] CTIA Comments at 28-29.

[80] *Id*. at 29-30.

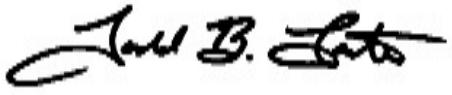
port than its competitor, which may have not really intended to provide the same quality of service or underestimated its costs."[81] Such an approach also favors the nation's largest carriers who would be able to absorb the costs of being the "race to the bottom" winner over a significantly larger customer base.

## VII. CONCLUSION.

RCA applauds the Commission for its efforts in pursuing universal service reforms that will enable all Americans, including those residing in rural and high-cost areas, to gain access to affordable mobile and broadband services. RCA respectfully requests the Commission to design new funding mechanisms that are competitively and technologically neutral, that operate efficiently in targeting support to areas that are most in need, that facilitate competition and take account of marketplace success, and that are sufficient to ensure the comparability of services provided to consumers in rural and urban areas.

Respectfully submitted,

RURAL CELLULAR ASSOCIATION



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[81] RICA Comments, WC Docket No. 05-337, filed May 31, 2007, at 7-8.